

## **CHAPTER 30.1-34 DUTIES AND LIABILITIES OF TRUSTEES**

**30.1-34-01. (7-301) General duties not limited.** Except as specifically provided, the general duty of the trustee to administer a trust expeditiously for the benefit of the beneficiaries is not altered by this title.

**30.1-34-02. (7-302) Trustee's standard of care and performance.** Except as otherwise provided by the terms of the trust, the trustee shall observe the standards in dealing with the trust assets as provided in sections 59-02-08.1 through 59-02-08.11.

**30.1-34-03. (7-303) Duty to inform and account to beneficiaries.** The trustee shall keep the beneficiaries of the trust reasonably informed of the trust and its administration. In addition:

1. Within thirty days after the trustee's acceptance of the trust, the trustee shall inform, in writing, the current beneficiaries and if possible, one or more persons who under section 30.1-03-03 may represent beneficiaries with future interests, of the district court in which the trust is registered and of the trustee's name and address.
2. Upon reasonable request, the trustee shall provide the beneficiary with a copy of the terms of the trust which describe or affect the beneficiary's interest and with relevant information about the assets of the trust and the particulars relating to the administration.
3. Upon reasonable request, a beneficiary is entitled to a statement of the accounts of the trust annually and on termination of the trust or change of the trustee.

**30.1-34-04. (7-304) Duty to provide bond.** A trustee shall provide bond to secure performance of the trustee's duties unless the terms of the trust expressly excuse the trustee from furnishing bond. On petition of the trustee or other interested person, the district court may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. If bond is required, it must be filed in the court of registration or other appropriate court in amounts and with the sureties and liabilities as provided in sections 30.1-17-04 and 30.1-17-06 relating to bonds of personal representatives.

**30.1-34-05. (7-305) Trustee's duties - Appropriate place of administration - Deviation.** A trustee is under a continuing duty to administer the trust at a place appropriate to the purposes of the trust and to its sound, efficient management. If the principal place of administration becomes inappropriate for any reason, the district court may enter any order furthering efficient administration and the interests of beneficiaries, including, if appropriate, release of registration, removal of the trustee, and appointment of a trustee in another state. Trust provisions relating to the place of administration and to changes in the place of administration or of trustee control unless compliance would be contrary to efficient administration or the purposes of the trust. Views of adult beneficiaries must be given weight in determining the suitability of the trustee and the place of administration.

**30.1-34-06. (7-306) Personal liability of trustee to third parties.**

1. Unless otherwise provided in the contract, a trustee is not personally liable on contracts properly entered into in the trustee's fiduciary capacity in the course of administration of the trust estate unless the trustee fails to reveal the trustee's representative capacity and identify the trust estate in the contract.
2. A trustee is personally liable for obligations arising from ownership or control of property of the trust estate or for torts committed in the course of administration of the trust estate only if the trustee is personally at fault.

3. Claims based on contracts entered into by a trustee in the trustee's fiduciary capacity, on obligations arising from ownership or control of the trust estate, or on torts committed in the course of trust administration may be asserted against the trust estate by proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable therefor.
4. The question of liability as between the trust estate and the trustee individually may be determined in a proceeding for accounting, surcharge, or indemnification, or other appropriate proceeding.

**30.1-34-07. (7-307) Limitations on proceedings against trustees after final account.**

Unless previously barred by adjudication, consent, or limitation, any claim against a trustee for breach of trust is barred as to any beneficiary who has received a final account or other statement fully disclosing the matter and showing termination of the trust relationship between the trustee and the beneficiary unless a proceeding to assert the claim is commenced within six months after receipt of the final account or statement. In any event, and notwithstanding lack of full disclosure, a trustee who has issued a final account or statement received by the beneficiary and has informed the beneficiary of the location and availability of records for the beneficiary's examination is protected after three years. A beneficiary is deemed to have received a final account or statement if, being an adult, it is received by the beneficiary personally or if, being a minor or disabled person, it is received by the beneficiary's representative as described in subsections 1 and 2 of section 30.1-03-03.